

I. Overview of OSHA's Revised Reporting Regulations and FRA's Final Rule

On January 19, 2001, OSHA published revised regulations entitled, "Occupational Injury and Illness Recording and Reporting Requirements; Final Rule," including a lengthy preamble that explains OSHA's rationale for these amendments. See 66 FR 5916, to be codified at 29 CFR parts 1904 and 1952; see also 66 FR 52031 (October 12, 2001) and 66 FR 66943 (December 27, 2001) (collectively, OSHA's Final Rule). A side-by-side comparison of OSHA's previous reporting and recordkeeping provisions with OSHA's new requirements appears at <http://safetydata.fra.dot.gov/OSHA-materials>.

With the exception of three provisions, OSHA's final rule became effective on January 1, 2002. See 66 FR 52031; see also 67 FR 44037 (July 1, 2002) and 67 FR 44124 (July 1, 2002).

FRA's railroad accident/incident reporting regulations, which are codified at part 225, include, among other provisions, sections that pertain to railroad occupational fatalities, injuries, and illnesses; these sections are consistent with prior OSHA regulations, with minor exceptions. These sections of FRA's accident/incident regulations that concern railroad occupational casualties should be maintained, to the extent practicable, in general conformity with OSHA's recordkeeping and reporting regulations to permit comparability of data on occupational casualties between various industries, to allow integration of railroad industry data into national statistical databases, and to improve the quality of data available for analysis of casualties in railroad accidents/incidents. Accordingly, through this final rule, FRA makes conforming amendments to its existing accident/incident reporting regulations and Guide. Further, FRA makes minor amendments to its alcohol and drug regulations (part 219) and locomotive engineer qualifications regulations (part 240) in those areas that incorporate terms from part 225.

Note: Throughout this preamble to the final rule, excerpts from OSHA regulations are provided for the convenience of the reader. The official version of the OSHA regulations appears in 29 CFR part

1904.

In addition, FRA will draft a memorandum of understanding (MOU) between FRA and OSHA to address specific areas that are unique to the railroad industry, and where it was not practical for FRA's regulations to be maintained in conformity with OSHA's final rule. Such divergence from OSHA's Final Rule is permitted under a provision of the rule:

If you create records to comply with another government agency's injury and illness recordkeeping requirements, OSHA will consider those records as meeting OSHA's Part 1904 recordkeeping requirements if OSHA accepts the other agency's records under a memorandum of understanding with that agency, or if the other agency's records contain the same information as this Part 1904 requires you to record.

Emphasis added. See 29 CFR 1904.3. Specific provisions of part 225 that do not conform to OSHA's final rule are discussed in detail in the preamble.

Finally, FRA makes other miscellaneous amendments to part 225 and the Guide, including revisions not solely related to railroad occupational casualties, such as the telephonic reporting of a train accident that fouls a main line track used for scheduled passenger service.